

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re)	BK No. 15-21860
STANISLAV EVTIMOV)	Chapter 13
Debtor.)	Judge Jack B. Schmetterer
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STANISLAV EVTIMOV)	
Plaintiff)	
v.)	Adv. Pro No. 15-00644
GREEN TREE SERVICING)	
Defendant)	
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FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to a Default Order and because the allegations in the Complaint have been taken as confessed against Green Tree Servicing, the following findings of fact and conclusions of law are made and will be entered:

1. Plaintiffs are the owners of real property commonly known as 912 Ridge Sq., Apt. 300, Elk Grove Village, IL 60007 with Pin Number 08-33-101-068-1038;
2. Green Tree Servicing is a lender and/or servicer of mortgages;
3. That Plaintiffs filed a voluntary petition for relief under Chapter 13 of 11 U.S.C. on June 24, 2015;
4. This adversary proceeding arises under Sections 502 and 506 of the U.S. Bankruptcy Code;
5. The Court has jurisdiction pursuant to 28 U.S.C. §1334 and this is a core proceeding under 28 U.S.C. §157(b)(2);

6. That pursuant to a search on Zillow.com conducted on August 26, 2015, the fair market value of the property commonly known as 912 Ridge Sq., Apt. 300, Elk Grove Village, IL 60007 is \$93,463;

7. That Plaintiffs' property is subject to a first mortgage lien of Ocwen with an estimated balance of \$107,035 as of September 1, 2015;

8. Under 11 U.S.C. §§506(a) and 506(d), Defendant's junior mortgage would be allowed a secured claim to the extent of the value of the estate's interest in the property securing the claim, and Defendant's lien is void to the extent it is not allowed a secured claim;

9. The amount owed on the first mortgage, \$107,035, exceeds the value of the above real estate, \$93,463;

10. The balance of the mortgage exceeds the value of the real estate that is the subject property.

Consequently, the junior mortgage of Green Tree Servicing is wholly unsecured and the lien against the real estate should be stripped off the real estate. See Holloway v. U.S., 2001 WL 1249053 (N.D. Ill. Oct. 15, 2001); In re Waters, 276 B.R. 879 (N.D. Ill 2002); In re Pond, 252 F.3d 122 (2nd Cir. 2001); In re McDonald, 205 F.3d 606 (3rd Cir. 2000); In Re Barte, 212 F.3d 277 (5th Cir. 2000); In Re Lane, 280 F.3d 663 (6th Cir. 2002); In re Zimmer, 313 F.3d 1220 (9th Cir. 2002); In re Tannter, 217 F.3d 1357 (11th Cir. 2000).

Dated: _____

11/6/15

Signed: _____

Honorable Jack B. Schmetterer

NOV 06 2015

Prepared by:

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